

REMARKS

FORMAL MATTERS

Claims 1-34 are pending

RESTRICTION REQUIREMENT

This is in response to the Restriction Requirement dated July 2, 2001. The Examiner therein required election of one of the following groups of claims:

- Group I: Claims 1-5 and 7, drawn to a method of reducing growth of a cancerous cell with a TTK antisense polynucleotide;
- Group II: Claims 1-5 and 7, drawn to a method of reducing growth of a cancerous cell with a monoclonal antibody that specifically binds TTK;
- Group III: Claims 8-15, drawn to an assay for identifying a candidate agent that reduces growth of a cancerous cell;
- Group IV: Claims 16-24, drawn to a method of identifying an agent that reduces TTK activity;
- Group V: Claims 25-27, drawn to a method of detecting cancer other than ovarian cancer by detecting the level of expression of a TTK polypeptide;
- Group VI: Claims 28-30, drawn to a method of detecting cancer other than ovarian cancer by detecting the level of expression of a TTK polypeptide; and
- Group VII: Claims 31-34, drawn to a method of assessing the prognosis of a cancerous disease other than ovarian cancer by detecting the level of expression of a TTK-encoding polynucleotide.

Applicants hereby elect to prosecute the claims of Group I, claims 1-5 and 7, with traverse.

The Applicants note that according to paragraph 3 of the Restriction Requirement, claim 1 links inventions I and II. Pursuant to MPEP § 809, *the linking claim must be examined with the invention elected*, and should any linking claim be allowed, the restriction requirement must be withdrawn. According to MPEP § 809, therefore, the full scope of claim 1 as it currently stands *must* be examined with the claims of Group I.

Further, the Applicants respectfully traverse the Restriction Requirement on the basis that the full scope of claim 1 is not encompassed by the combination of Inventions I and II, as set forth in the Restriction Requirement. In other words, claim 1 is broader in scope than the combination of Invention I (a method of reducing growth of a cancerous cell using an *antisense polynucleotide*) and Invention II (a method of reducing growth of a cancerous cell using a *monoclonal antibody*). As such, certain subject matter encompassed by claim 1 (e.g., methods of reducing growth of a cancerous cell using a *small molecule*, for example) are not encompassed by the Inventions set forth in the Restriction Requirement. Accordingly, restriction of claim 1 into Inventions I and II is not proper: the invention of claim 1 is, as a point of fact, broader in scope than the combination of Inventions I and II and cannot be thus split.

In other words, the invention described in claim 1 has been impermissibly split into two inventions by the Office because the full scope of the invention described in claim 1 is not encompassed by Inventions I and II.

In view of the foregoing discussion, withdrawal of the Restriction Requirement of claim 1 is respectfully requested.

Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter during the pendency of this application.

SUMMARY

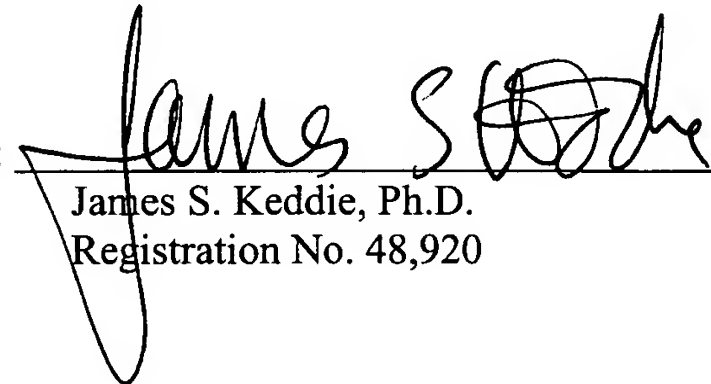
The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number 2300-16932.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: _____

9-2-04

By: _____

A handwritten signature in black ink, appearing to read "James S. Keddie", written over a horizontal line.

James S. Keddie, Ph.D.
Registration No. 48,920

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Facsimile: (650) 327-3231

F:\DOCUMENT\2300\16932\RESTICTION ELECTION.doc